

# CHAPTER I

## PROJECT START-UP

### OVERVIEW

This chapter summarizes the key considerations and important first steps that you will need to accomplish as you start your project with Treasure State Endowment Program (TSEP) funds, including:

- information about TSEP funds and the timely completion of your project,
- complying with project start-up requirements, including:
  - ✓ preparing and amending the contract,
  - ✓ preparing a management plan for project administration,
  - ✓ complying with accounting, auditing and reporting requirements,
  - ✓ obtaining the firm commitment of non-TSEP funding, and
  - ✓ complying with any special conditions,
- completing authorized signature and depository forms, and
- establishing project files.

As a summary, a checklist of start-up activities is included at the end of this chapter.

### A. APPLICABLE STATE REQUIREMENTS

#### 1. The Montana TSEP Application Guidelines for Public Facility Projects

These guidelines set out the basic requirements governing an application for TSEP funds and describe the various conditions that attach to projects selected for funding.

#### 2. The Montana TSEP Project Administration Manual

This manual describes the policies and procedures governing administration of TSEP projects by TSEP recipients. The Montana Department of Commerce (MDOC) has adopted both the TSEP Application Guidelines and Project Administration Manual by

reference, as administrative rules under the Montana Administrative Procedure Act. (Cite: ARM 8.97.3702) Compliance with these and other applicable requirements are specific conditions of the contract between MDOC and the TSEP recipient.

The following pages discuss the major steps that typically take place in starting your project.

## **B. TSEP Funds**

### **1. Amount of TSEP Funding**

The maximum amount of funding available for each TSEP project is determined through the legislative appropriations process. The amount of funds that have been approved for each TSEP recipient are established in House Bill 11. **In no case can MDOC provide additional funds beyond the amount of TSEP funds approved by the Legislature.**

The legislative appropriation of funds does not imply approval of all activities or specific costs proposed in the application submitted. The proposed work program and budget may be subject to modification during contract negotiations between the applicant and MDOC.

### **2. Incurring Costs**

TSEP funds are appropriated by the Montana Legislature for a two-year period or "biennium." Local governments approved for TSEP funding are funded with revenues obtained from the interest earned on the Treasure State Endowment Fund during the biennium. The TSEP funds become available for disbursement gradually as interest is earned on the Treasure State Endowment Fund over the two-year biennium period. Interest earned on the Treasure State Endowment Fund during a biennium can only be used to fund projects approved for that biennium.

**The Legislature's approval of TSEP funding for a project does not, by itself, authorize TSEP recipients to begin incurring costs.** Communities selected for TSEP funding do not automatically have authorization to obligate any TSEP funds for hiring staff, consultants, engineers, or paying their salaries. Likewise, it is premature to spend or commit any funds for any construction activities. These activities should not be undertaken until you have firm commitments from all funding sources and have authorization from MDOC. Another important point to remember is that **TSEP funds cannot be used to reimburse a TSEP recipient for any costs incurred prior to legislative approval of the TSEP project**, such as expenditures associated with

application preparation or previous engineering studies or plans. In addition, TSEP funds cannot be used to reimburse a TSEP recipient for any unauthorized costs incurred prior to a signed TSEP contract.

**TSEP funds will not actually become available for reimbursing eligible expenditures until all TSEP start-up requirements have been complied with and a letter of authorization called a "Notice to Proceed" is issued by MDOC.** Prior to receipt of the TSEP "Notice to Proceed," all project expenses must be paid out of local government funds until TSEP funds become available to reimburse the TSEP recipient.

In the event a contract is not executed, a project is unable to comply with the terms and conditions of the contract, the project budget does not include sufficient funds for a particular expenditure, or if funds are obligated or costs incurred without proper authorization, any costs incurred will be the responsibility of the local government.

**TSEP recipients that are guaranteed funding through HB 11 must meet the start-up requirements discussed in this chapter prior to the end of the biennium in order to maintain that guarantee of funding.** If a TSEP recipient with guaranteed funding meets the start-up requirements prior to the end of the biennium, and there are insufficient TSEP revenues during the biennium, the TSEP recipient will be funded first from the revenues from the next biennium. **TSEP recipients that do not complete their project start-up requirements before the end of the biennium lose the guarantee of TSEP funds, and could risk the possibility that they may not receive TSEP funds if revenues fall below projections during the biennium.**

HB 11 authorizes three additional projects for TSEP funding, but only if additional TSEP funds become available. It will not be known whether there are any additional TSEP revenues available for these projects until the end of the 2005 biennium (approximately July 15, 2005). If there are insufficient TSEP revenues during the 2005 biennium and those projects are not funded, they must re-apply for TSEP funding. Since the end of the 2005 biennium is after the next application deadline of May 7, 2004, these projects may want to re-apply for TSEP funds to be awarded by the 2005 Legislature. For these projects that may re-apply for funds, MDOC would add a provision in its recommendations to the Legislature that if any of these three additional projects receives TSEP funds through the 2005 biennium, they would only receive as much as originally requested.

Because TSEP funds accumulate gradually as interest is earned on the Treasure State Endowment Fund over the two-year biennium period, the total amount of funds

appropriated for projects are not received until the end of the biennium. Sufficient funds are not always available to fund projects when local officials are ready to proceed. **However, TSEP funds are typically available as soon as TSEP recipients complete their start-up requirements.** At the beginning of each month, funds are made available to those projects that have completed the start-up requirements. A “notice to proceed” letter will be sent notifying the local government that start-up requirements have been satisfied, TSEP funds are available, and the TSEP recipient can begin to draw down TSEP funds.

If the level of TSEP revenues used to pay project expenses becomes too low, MDOC may require projects that have met start-up requirements to wait until there are sufficient revenues again. In that case, MDOC will always start at the top of the priority ranking list as approved by the Legislature in order to make available TSEP funds to the highest ranked projects that are ready to proceed.

A project may be temporarily passed over for funding because the project had not completed start-up requirements, but this does not affect the project’s eligibility to receive funds at a later date. Projects that have met start-up requirements and that are temporarily passed over for funding will have the opportunity to receive TSEP funding as revenues become available.

If you want to get started before receiving a “Notice to Proceed,” you have the option of arranging interim financing. TSEP can reimburse the grant recipient once TSEP funds become available. However, if TSEP revenues fall short of projections, the TSEP recipient may be required to wait for funding from the next biennium’s funds if they have been guaranteed funding. Local governments that were not guaranteed funding in House Bill 11, and begin a project before receiving a “Notice to Proceed,” proceed at their own risk with the possibility that they will not receive TSEP funds. For details on when TSEP funds might likely be available for your project, contact the TSEP staff. (See Chapter 4, Financial Management for more information on interim financing or contact TSEP staff for details.) The procedures by which TSEP recipients are reimbursed are discussed in Chapter 4, Financial Management.

### 3. Timely Project Completion

TSEP recipients are expected to complete their start-up requirements as soon as possible and complete the project in a timely manner. The Department provides a status report on all projects still in progress to the Legislature. Along with recommendations from the Department, the Legislature reviews the uncompleted projects for its consideration of whether to continue funding them. In particular, projects that have not completed the start-up requirements are scrutinized in order to determine if a previously authorized grant should be withdrawn. **Those projects that have not met their start-up requirements before the Legislature meets, are subject to**

having TSEP funds reallocated to other projects. In addition, a TSEP recipient that fails to commence or complete its project in a timely manner may also have previously authorized TSEP funds withdrawn and reallocated to other projects.

The Department will retain two percent of the total grant amount until the TSEP recipient submits the documentation necessary to close out the project. The report is required within 90 days after a Certificate of Substantial Completion has been issued for the completed project. If the TSEP recipient fails to submit a closeout report within the required timeframe, the Department will refer the project back to the next Legislature for its consideration of whether these remaining funds should be re-allocated to other TSEP projects. (For more information on the closeout report, see Chapter 11, Project Closeout.)

## **C. PROJECT START-UP REQUIREMENTS**

### **1. Preparing the TSEP Contract**

The first start-up requirement is the TSEP agreement or contract. The TSEP contract is the legal document that governs the administration of the grant and includes the following items:

- the amount of TSEP funds to be provided;
- the scope of work to be completed;
- a detailed budget for the TSEP funds and any other funds involved in the project;
- the schedule for implementing the project;
- any special conditions associated with the grant; and
- the general terms and conditions associated with the grant.

The process of preparing the contract will include fine-tuning the project budget and implementation schedule, and identifying the scope of work to be completed. The TSEP application, as approved by the Legislature will also become a part of the contract.

Each contract consists of:

- provisions common to all TSEP contracts, generally referred to as "boilerplate"

(such as provisions regarding contract termination, modification and amendment; method of payment; conflict of interest; and compliance with applicable laws and regulations); and

- provisions specific to the agreement between the State and the TSEP recipient (such as provisions regarding the amount of the grant, the scope of work, the project budget, project implementation schedule, and any special conditions).

#### **Note for Tribal Governments**

In accordance with the TSEP statutes, agreements entered into with tribal governments must contain, in addition to other appropriate terms and conditions, the following conditions:

- a requirement that in the event that a dispute or claim arises under the agreement, state law will govern as to the interpretation and performance of the agreement and that any judicial proceeding concerning the terms of the agreement will be brought in the district court of the First Judicial District of the State of Montana;
- an express waiver of the tribal government's immunity from suit on any issue specifically arising from the transaction of a loan or grant; and
- an express waiver of any right to exhaust tribal remedies signed by the tribal government.

In addition, the Secretary of the United States Department of the Interior must approve the agreement with a tribal government, whenever approval is necessary.

A sample TSEP contract is included in Exhibit 1 -A. The TSEP liaison assigned to your project will prepare a draft contract for review by local officials. The draft will reflect the key elements of the project as described in the original TSEP application. Local officials should pay particular attention to the sections addressing grant amount, scope of work, project budget, project implementation schedule, and any special conditions.

#### **a. Scope of Work**

The scope of work will include those activities that were described in your TSEP application. In addition, if the TSEP recipient has not already developed and adopted a current Capital Improvements Plan that covers a five year period, that activity will also be required under the scope of work.

#### **b. Project Budget**

A project budget was submitted with each application. The project budget must be updated to make sure that all funding sources are current, each budget item has been identified and the amount budgeted is correct. If the project involves funding through other state or federal programs, you may also have to consider any limitations on the use of those funds as you prepare the overall project budget. Some programs allow their funds to be used for only certain purposes, and these constraints should be kept in mind when you decide which funding source will finance each component of the project. You will also have to consider the timing of the availability of those other funds in preparing the budget.

Sometimes the funding from a particular source may be split between two or more fiscal years and the project is split into components and multiple phases by the funding source. Depending on the firmness of the commitment of the other funds: 1) TSEP funds may be provided in the same proportion as is being provided by the other funding agency; or 2) TSEP funds may be withheld until the final phase when all funds are firmly committed.

It is important to discuss your proposed budget with each funding source before you finalize and submit your project budget, to ensure that what you have proposed is acceptable to all of the funding sources. An example of a project budget is included as part of the Model TSEP Contract in Exhibit 1-A. This sample budget is only a guide since each project will have unique elements that will have to be considered.

When the project is ready to begin the construction phase, the project budget will need to be revised to reflect the actual amount in the construction bid. **In the event that the construction bid is less than the budgeted amount, the construction line item must be revised to reflect the reduced costs.** The amount budgeted for construction in the project budget may be reduced by an amount in proportion to the reduction in the amount required for construction. For example, if the overall savings were 20 percent, the amount to be provided by TSEP for construction activities would be reduced by 20 percent. Any savings would then be added to the contingency line item amount.

If there are any savings upon completion of the project, MDOC reserves the right to share proportionately in those savings with all funding sources. The TSEP recipient may request to use the difference between the final actual project costs and the original grant award to fund additional work that further enhances the system. However, MDOC will not approve the request until the original project is completed or at least close to completion and the total cost can be determined. Before MDOC makes a determination to allow the additional scope of work, the TSEP

recipient must demonstrate that the additional work will:

- be consistent with the intent of the original proposed project approved by the Legislature;
- clearly enhance the overall impact of the original project; and
- be able to be completed with the excess funds in a timely manner.

The TSEP recipient should send the TSEP liaison a written request to use remaining TSEP funds for the additional work activities, including full rationale and cost details, for MDOC's review and approval.

While MDOC typically allows additional work activities to be funded with remaining TSEP funds, the decision to do so is strictly at the discretion of MDOC and will likely not be allowed when the actual TSEP interest earnings received by MDOC are less than what has been projected for the biennium. As a result, the remaining TSEP funds may be reallocated for other TSEP projects.

In addition, in the event that actual project expenses are lower than the projected expense of the project as presented in the TSEP application, MDOC may, at its discretion, reduce the amount of TSEP grant funds so that the projected average residential user rate does not become lower than the target rate.

c. Project Implementation Schedule

A project implementation schedule was submitted with each application. The implementation schedule identifies the tentative time frames for major activities throughout the project. As you prepare your final implementation schedule for the TSEP contract you should make sure that all key tasks have been identified and more precisely define when they must be accomplished to complete the overall project. An example of a project implementation schedule is included as part of the Model TSEP Contract in Exhibit 1-A. This sample schedule is only a guide since each project will have unique elements that will have to be considered.

The schedule should be posted for periodic reference to compare actual work completed with the original planned schedule. Even more helpful is the use of a "Plan-a-Year" calendar or a computerized calendar program that lays out twelve months at a glance so that the manager can note key milestones month by month along with other specific dates for project work tasks. The key concern for grant administrators is not to let those key deadlines get "out of sight and out of mind." It is important that the implementation schedule be kept up to date. Furthermore, when the project is ready to



begin the construction phase, the implementation schedule must be revised to show all major milestones that will be accomplished during the construction phase. This information should be available from the project engineer. Your project liaison should be notified of any changes in the implementation schedule.

MDOC recommends that the local government's attorney review the contract, in draft form, to ensure that it is consistent with the community's legal authority and interests. Any concerns should be communicated to the TSEP staff assigned as liaison for the project. Once agreement is reached on the content, the TSEP liaison will send the final contract to the TSEP recipient to get signed by the local government's chief elected official(s) or executive officer. Three copies of the final contract will be prepared and each will require original signatures. All three copies must be returned to MDOC for the Department director's signature. One copy will be returned to the TSEP recipient. The remaining two copies will be retained by MDOC.

### **Amending the Contract**

It is difficult to prepare a budget and an implementation schedule that will not need changing at some point during the project. Changes to the implementation schedule and project budget are expected and are typically a routine part of the project. However, changes to the TSEP portion of the budget that involve moving \$5,000 or more from one line item to another require approval in advance.

Modifying the scope of work, especially if they involve significant changes, are not considered routine and potentially can have a significant impact on the project being able to proceed.

**In accordance with House Bill 11, the Department cannot approve amendments to the scope of work or budget affecting priority activities or improvements that would materially alter the intent and circumstances under which the application was originally ranked by the Department and approved by the Legislature and the Governor.**

Significant changes to the scope of work or budget could jeopardize the TSEP funds if the Department determines that the proposed amendments could "materially alter the intent and circumstances" under which the project was originally approved. **As a result, the Department may refer any significant changes to the scope of work or budget to the next regular session of the Legislature for its review and approval.** Local governments that have already been provided with a "Notice to Proceed," that request a modification that significantly affects the scope of work or budget, may have their TSEP funding temporarily suspended until the next session of the Legislature.

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An example of a significant change to the scope of work would be if the TSEP recipient wanted to eliminate a portion of the proposed project, which would result in one or more of the deficiencies identified in the application remaining unresolved. However, changes to the selected design alternative identified in the preliminary engineering report are not considered a significant change to the scope of work as long as the major deficiencies identified in the TSEP application are resolved.

Significant modifications to the budget or the scope of work will require approval in advance. Before MDOC makes a determination to allow the amendment, the TSEP recipient must provide a written justification that clearly demonstrates that the modification is appropriate and necessary. MDOC may require that a public hearing, with reasonable notice, be conducted by the TSEP recipient if the proposed amendment is determined to be a significant enough change in the project.

## 2. Preparing the Management Plan

The next step is for local officials to prepare a management plan to assign roles and responsibilities to specific individuals for the day-to-day administration of the project. As we proceed through this manual, keep in mind that someone will have to be responsible for assuring compliance with all of the requirements that are described in this manual. **Reasonable and appropriate costs for grant administration are eligible for reimbursement with TSEP funds if provided for in the project budget that is part of the contract between the TSEP recipient and MDOC.** A maximum of 10% of the TSEP portion of the project budget may be used for administrative expenses.

A very common problem in the management of a project of this magnitude is that local officials, or staff, assume that someone else is taking care of a particular requirement or work task. Preparation of the management plan will allow local government officials and the TSEP staff to have confidence that someone has been assigned to assure compliance with all the necessary requirements before the project proceeds. This will also allow local officials and MDOC to monitor the completion of the project more effectively.

As a condition of the TSEP contract terms, all TSEP recipients are required to prepare and submit a management plan that specifically demonstrates to MDOC how and by whom the grant will be managed. More specific information regarding the suggested content of the plan is contained in Exhibit 1 -B, Management Plan. In addition, a sample management plan has been provided as an example in Exhibit 1 -C. Local officials can adapt features from the sample to fit their particular situation.

These grants are managed either by the TSEP recipient directly or by a private individual or consulting firm hired to manage the grant activities. The local governing body may designate an existing employee (such as a planning director, public works superintendent or clerk) as the TSEP grant manager, or may hire a new employee to manage a grant. In some cases, the local government may choose to contract with an existing special purpose agency, such as an economic development corporation, to manage a grant. An interlocal agreement and other special steps may be necessary in such cases. Montana law also allows the option of grant administration by another local government through an interlocal agreement.

An Interlocal Agreement is required when the TSEP recipient contracts with another local government agency to administer TSEP funds. See the sample Interlocal Agreement, Exhibit 1-D.

**Regardless of whom the TSEP recipient selects to manage the grant, the direct responsibility for complying with the TSEP grant and other state requirements, including the proper financial management of TSEP funds, rests with the governing body of the TSEP recipient.**

Local officials should understand that the administration of the TSEP grant and the project does not usually require the full-time attention of an employee or contractor from the beginning of a project to its completion. The work may involve several weeks of full-time research or intense periods of activity during bidding of construction work or during actual construction to assure compliance with state labor requirements. If local officials are considering assigning grant management duties to an existing employee, that employee must be capable of setting aside his or her regular duties during these peak periods of activity.

Local officials should also understand that it is not a prerequisite that local staff, or even a private contractor, have previous experience in administering a public facilities project in order to be an effective grant manager. The key concern for local officials is that the person who is assigned, hired or contracted to serve as grant manager have the demonstrated skills and capability to be a conscientious and effective manager. That person must be able to devote the time required, when it is required, to make sure that the necessary tasks are properly completed.

By administering a TSEP grant with its own staff a TSEP recipient will gain valuable experience that can be applied to other projects funded by other state or federal programs. Experience in successfully administering a TSEP grant can also enhance a community's ability to compete for other programs. Other funding programs may take into consideration a past TSEP recipient's performance in managing grants. However,

it is important to keep in mind that existing employees already have job duties, and unless some of these duties are temporarily shifted to another employee, the person assigned to manage the grant may not have the time to properly manage the grant. Overloading an employee with these additional duties sometimes results in employee “burnout” and they may decide to terminate their employment.

In many communities the local staff is already overloaded by their present work tasks and would be unable to shift responsibilities during the term of a TSEP project. In these cases, local officials may prefer to hire an outside contractor rather than to add a local employee that would have to be terminated at the end of the project. In other cases, the community's project may involve more complex, technical issues that local officials would prefer to have handled by experienced professionals. By bringing in outside consultants, the community reduces the lag time involved in learning detailed requirements or in researching management issues and benefits from the practical experience of their consultant.

If you decide to retain a consultant to help you with management of your TSEP grant, make sure that a local official or employee works closely with the consultant to gain a better understanding of the management issues involved. In many cases, where the community turns everything over to the consultant, all of the detailed knowledge about the project is lost when the project is done and the consultant leaves. Establishing a close working relationship with the consultant will also provide an excellent opportunity for training of local staff and will help improve communication between the community and the consultant.

There are some important considerations to keep in mind depending on who manages the grant:

a. Administration by Public Employees

**If local government employees will be responsible for TSEP grant management, and will be paid with TSEP funds or will be counted towards matching funds, be sure to document all expenditures of time and dollars associated with the administrative activities.** Samples of documentation include:

- employee's hourly time and attendance sheets;
- copies of travel vouchers with accompanying documentation;
- of all other direct expenses (e.g. telephone, printing and photocopying); and

- copies of all canceled checks or warrants for TSEP-related expenditures.

If TSEP funds will be used to pay public employees for work on a TSEP project, local staff should maintain brief logs summarizing daily activities in conjunction with the preparation of detailed hourly time sheets for TSEP-related work. The time sheets must clearly differentiate between time charged to the TSEP project versus time charged to other local government duties.

b. Management by Private Contractor

When an outside consultant will be hired for grant administration, the local government should use competitive procedures for procurement of services. These procedures are designed to protect the community and help assure that it selects a competent contractor at a reasonable cost. MDOC recommends that professional services are obtained through a "competitive proposal" process (requests for proposals or RFP's) as described in Chapter 3. **All contracts for grant management services to be paid for in part by TSEP funds must be submitted to MDOC for its review and approval, prior to execution.**

Remember that the local government must maintain effective control over and accountability for all funds. **If a consultant is hired for grant administration, the consultant cannot review or sign off on it's own work.** This becomes even more problematic if the engineer also provides the grant administration services. As a result, the local government must be actively involved in the project in order to account for all funds, review the consultants work, and sign off on invoices from the consultant.

**Once you have decided on who will be administering your TSEP grant and other components of the project, local officials, along with the designated individuals involved in the project, should meet to ensure that all parties involved understand their individual roles and responsibilities.** The meeting is an opportunity to outline operating procedures, the management system, and reporting requirements. The various tasks should be identified, along with who will be responsible for completing them. The participants should be clear about who will be responsible for each of the administrative tasks including preparing and submitting performance reports, scheduling work, conducting site inspections, monitoring contractors and interviewing workers for labor standards requirements, requesting funds, etc. The meeting will help identify any gaps in your management plan that you may have to address before you begin to implement your local project. You should also make sure that each person involved in the plan has a copy of the task assignments

and implementation schedule. In the event of staff turnovers, the plan will help familiarize new staff with the responsibilities and operating procedures required to handle project administration.

**Once the management plan is final, the governing body is required to sign the plan and submit it to MDOC. The management plan must be approved by MDOC in order to meet start-up requirements. The approved management plan should be retained in your project management file.**

### 3. Obtaining the Firm Commitment of Non-TSEP Funding

It is MDOC's responsibility to ensure that matching funds are committed for a project before TSEP funding is provided. This is to prevent a situation where a project is started but cannot be finished or payment to contractors is delayed because the local government's matching funds are not firmly committed. As a result, the TSEP recipient must provide evidence of the "firm commitment" of all non-TSEP public or private sector funding involved in the TSEP project.

At any time that a local government has all matching funds committed to the project, TSEP funds would be provided for all eligible project expenses incurred by the local government. However, prior to having all matching funds committed to the project, a two-step approach can also be used to obtain TSEP funds:

**Step 1** - Upon receiving the specific documentation (which is determined by the type of matching funds), TSEP funds will be provided to local governments for eligible project expenses as they are incurred (such as project administration, land acquisition, and final engineering), except for actual construction expenses. A limited "Notice to Proceed" will be issued by MDOC, which will state what the TSEP funds can be used for.

**Step 2** - Once all matching funds are committed to the project, MDOC will issue a "Notice to Proceed," and TSEP will provide funding for all eligible project expenses as they are incurred, including construction expenses. MDOC will make the final determination of whether matching funds represent a bona fide firm commitment and are available for the project.

**The TSEP recipient must provide evidence of the firm commitment of all non-TSEP funding in order to meet start-up requirements.** The local government must provide written documentation in accordance with the guidelines on firm commitment of non-TSEP funding as explained in Exhibit 1-E.

If the TSEP recipient changes one of its sources of funding, or if the cost of the project increases substantially, after obtaining the firm commitment of non-TSEP funds, and additional funding is required from existing or new sources, MDOC may at its discretion withdraw the "Notice to Proceed," thereby suspending distribution of TSEP funds until there is once again a firm commitment of funds for the project.

In some cases, the funding from a particular source may be split between two or more fiscal years, and the project is split into components and multiple phases by the funding source. Because there is not a firm commitment of funds from the other funding source until the last phase, TSEP funds will not be released for the project until the final phase. However, if the funding agency can provide a reasonable assurance that the project will be completely funded within a reasonable amount of time, MDOC at its discretion will consider providing TSEP funds in the same proportion as is being provided by the other funding agency.

#### 4. Complying With Auditing and Reporting Requirements

The TSEP recipient must be in compliance with the auditing and reporting requirements provided for in 2-7-503, MCA, and have established a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles (GAAP). Tribal governments must comply with auditing and reporting requirements provided for in OMB Circular A-133 instead of 2-7-503, MCA.

In order to ensure compliance, MDOC relies upon the Local Government Services Bureau (telephone number 841-2909), which is part of the Department of Administration, to confirm that the TSEP recipient appears to be in compliance. The Local Government Services Bureau is also available at no charge to the TSEP recipient to help set up an accounting system. The Local Government Services Bureau will not call upon a local government to help it with accounting problems or to confirm that the TSEP recipient appears to be in compliance with GAAP unless requested by the local government. **As a result, the local government will be required to request an on-site visit unless the Local Government Services Bureau can confirm by telephone that the local government appears to be in compliance with GAAP requirements without an on-site visit.**

For new water, wastewater and solid waste districts with no existing accounting system, the TSEP recipient will initially be required to set up an accounting system that can account for revenues and expenditures related to the project. However, before the



TSEP recipient can conditionally closeout the project, the remainder of the accounting system must be set up in order to account for the on-going operational needs of the system.

#### 5. Complying with Special Project Conditions

Some TSEP grant awards may be subject to additional conditions, as approved by the Legislature. These additional requirements may have to be complied with in order to complete the start-up requirements.

An example of a special condition would be the adoption of an "Interlocal Agreement" in order to manage TSEP funds by a local government other than the one that applied for the TSEP funding. (See the Model Interlocal Agreement, Exhibit 1-D).

#### 6. Completing Signature and Depository Forms

While the completion of these forms is not a start-up requirement, these forms must be completed and submitted to MDOC to establish the mechanisms for requesting and receiving TSEP funds (usually referred to as a "drawdown" or "draw" of funds) before any TSEP funds can be released.

The Signature Certification Form (Exhibit 1 -F) authorizes several local officials to sign requests for payment. At least two officials must sign each drawdown request.

The Designation of Depository form (Exhibit 1 -G) provides that the payment for a grant or a loan will be sent directly to the local government's designated bank account. The Designation of Depository must indicate the name and/or number of an account (general depository) to which MDOC will authorize the direct deposit of TSEP funds.

One original copy of each form (Exhibits 1 -F and 1 -G) must be completed by the TSEP recipient. Mail the original to your TSEP liaison and retain a copy in your Financial Management File. If the TSEP recipient ever needs to change the authorized signatories or depository, new forms must be submitted to MDOC.

The procedures for processing a drawdown of TSEP funds are described in Chapter 4, Financial Management.

#### 7. Establishing Project Files

While the establishment of project files is also not a start-up requirement, **keeping**

**complete and detailed records is crucial to the successful management of a TSEP project.** You should maintain detailed records of day-to-day project activities. This includes making and filing notes for all telephone or personal conversations regarding the project with the name of the person, time, date, and a summary of the conversation. Exhibit H contains a sample "Contact Sheet" that you can copy and use for keeping a record of telephone or personal conversations regarding the project.

This section provides a general outline of a suggested file system for project records that will meet MDOC monitoring requirements. By establishing and continuously updating the project files, the grant administrator will gather and organize all the information needed to assure effective management as well as to document compliance with State requirements. Most grant administrators find that an alphabetical order for file names makes information filing and retrieval easiest. File contents should be organized with the most recent material on top. Most managers also find it helpful to bind the contents of each file so that the order of the contents cannot be easily disturbed. (Many of the specific file entries will be discussed in the remaining sections of the manual as they relate to specific TSEP project activities and compliance with state requirements.) **When a project is funded by multiple funding agencies, it is not necessary to have multiple files on the same topic.**

**Original and complete documentation for all files must be retained in the official offices of the local governing body and be available during normal business hours for your TSEP liaison and the public to review them.** Grant administrators may have copies of key documents at a separate location, if more convenient, but the main files with the original documents must be maintained in the official offices of the local governing body.

Most projects will not require every file described below. The appropriate files for your project will vary depending on the type of project and activities involved in it. Those files with an asterisk (\*) are TSEP-specific files. All others would be considered general files and only one file for each category should be needed to satisfy the requirements of all funding sources. The files below are listed in alphabetical order for ease of reference.

a. Application File\*

The application file should contain a copy of the TSEP recipient's original TSEP application as submitted to MDOC, all supporting documentation including the publication notices for and records of the required public hearing or other documentation used to prepare the application or any correspondence related to the application.

b. Acquisition/Relocation File

This file contains a copy of records on any property or equipment acquired with TSEP funds.

c. Audit File

This file should contain copies of any audit published for the TSEP recipient which includes any time period during which TSEP funds were expended, as well as copies of any local government comments prepared in response to any audit findings.

d. Citizen Participation

This file will contain copies of public notices, hearings, and press releases or announcements, newspaper articles, council or commission minutes, citizen comments or complaints (with the TSEP recipient's responses to them), and summaries of meetings related to the TSEP project. Records of any other efforts to provide information to the public or increase public awareness of the project, such as photographs of any project sign erected near project activities, should be included in the file.

e. Consultant/Employee Selection File

If the project will be administered by public employees, any required hiring records must be maintained in this file. If the local project will be administered through a contractual arrangement for professional services, this file should contain records of the procedures followed in the solicitation for services and a copy of the agreement between the community and the consultant. Some projects may involve both. Chapter 3, Procurement Requirements, provides additional guidance with respect to required data and documentation.

f. Contract File\*

This file should contain the executed copy of the TSEP contract between the TSEP recipient and MDOC including all general terms and conditions, specific conditions, and attachments. In addition, any related correspondence, telephone notes, or subsequent amendments to the contract must be retained in this file.

g. Environmental File

This file should contain all data and documentation prepared in response to any applicable environmental requirements including all notices, public comments, environmental assessment, analysis or permits required by a state or federal agency.

h. Financial Management File

Sub files may be useful to keep separate those documents specific to each funding source such as request for funds forms, progress reports and other agency specific forms. A complete record of all financial transactions concerning the grant must be maintained. This file should include up-to-date financial information regarding the status of TSEP and other funds involved in the project. While the official and detailed financial records, including all original source documentation, such as original invoices or claims, for expenditures, must be maintained by the local government's financial office, the grant administrator may wish to duplicate key information such as MDOC request for funds forms, or copies of claims and invoices. It is important that the grant administrator and the TSEP recipient's financial officer work together to monitor project finances. The financial management file maintained by the grant administrator usually consists of several documents, including:

- copies of the Signature Certification and Designation of Depository forms; and
- copies of the Request for Funds Form (Exhibit 4-B in Chapter 4), along with the Project Progress Report and any other information submitted to MDOC with the drawdown request. (The grant administrator may also want to file copies of the original source documentation for any major expenditures to be reimbursed by the drawdown, since this information is generally reviewed when the TSEP recipient is monitored by the TSEP liaison.)

If TSEP funds will be used for personnel expenses, the grant administrator must also keep copies of payroll records for local staff administering the TSEP project, including hourly time and attendance records and brief logs summarizing project activities performed.

Chapter 4 includes a detailed discussion regarding financial record keeping requirements.

i. General Correspondence

This file should contain all general written correspondence and notes related to any telephone conversations regarding the project which are not more appropriate to one of the other topic files.

j. Labor Requirements File

This file will contain all documentation related to TSEP recipient compliance with applicable State labor requirements. Chapter 6, Labor Requirements, includes a detailed discussion of labor standards record keeping requirements.

k. Monitoring File

Sub files may be useful to keep separate those documents specific to each funding source. Periodically, MDOC staff will make monitoring visits to assure that TSEP funds are being used properly and that the projects are being administered in conformance with state law. All written correspondence and telephone notes regarding monitoring of the grant by MDOC or any other agency should be retained in this file. It is especially important to include all monitoring letters from MDOC along with any responses to those letters from the chief elected official or others.

l. Project Closeout File\*

Chapter 11, Project Closeout, includes a description of the information required for the project closeout process. The closeout file should include a copy of the TSEP recipient's preliminary and final closeout reports, any correspondence to or from MDOC regarding closeout, and a copy of the audit or audits covering the term of the TSEP project.

m. Project Management File

Sub files may be useful to keep separate those documents specific to each funding source. The project management file should include the following:

- (1) A copy of the project management plan, including the most current approved implementation schedule, as well as copies of any notes, memorandums, or correspondence regarding project management which are not more appropriate to the specific topic files. Copies of the project progress reports which are submitted to MDOC as attachments to the "Request for Funds Report" form when drawdowns are made are usually retained with the TSEP recipient's copy of the drawdown form in the Financial Management File.

- (2) Copies of any correspondence, telephone notes, or other documentation relating to any inquiry concerning potential conflicts of interest or requests to MDOC for any determination concerning a conflict of interest.
- (3) Copies of any special memoranda or directives from MDOC or any other agency pertaining to issues of policy or procedure which would affect administration of the project. MDOC may periodically distribute updates regarding new developments in state statutes or regulations that may have an impact on your project. These should be retained in this file for reference. You may also want to include copies of any local policies or procedures pertinent to the TSEP project.
- (4) Copies of any legal opinions or recommendations from the TSEP recipient's attorney or from MDOC that are relevant to the project. Records of any other contacts regarding legal issues should also be kept in the file.

n. Public Facilities Contracts File

For each construction contract, a separate subfile should be established which contains the request for bids, certified copies of legal advertisements, bid documents, contract documents, minutes of the preconstruction conference, and all other related materials. A detailed discussion of required documentation is included in Chapter 8, Public Facilities Construction Management.

## CHECKLIST FOR START-UP ACTIVITIES

In summary, Chapter 1 sets forth the following important steps that the TSEP recipient must undertake to start-up the grant. These steps in the start-up process can be completed concurrently.

- \_\_\_\_\_ 1. Develop the contract with MDOC (see model contract in Exhibit 1-A).
  - \_\_\_\_\_ a. coordinate with the TSEP liaison on preparation of draft contract.
  - \_\_\_\_\_ b. prepare a preliminary schedule for project implementation and budget and submit to MDOC.
  - \_\_\_\_\_ c. obtain a local review of the draft contract by the city, town, or county attorney.
  - \_\_\_\_\_ d. sign final contract and return to MDOC (all three copies).
- \_\_\_\_\_ 2. Establish a management plan for project administration (see Exhibits 1-B and 1-C.)
  - \_\_\_\_\_ a. determine whether a public employee or a private contractor will manage the grant activities (or both).
  - \_\_\_\_\_ b. assign responsibilities to individuals for all aspects of project management, and meet with all parties to clarify the roles of each person.
  - \_\_\_\_\_ c. governing body sign project management plan.
  - \_\_\_\_\_ d. submit the project management plan to MDOC.
  - \_\_\_\_\_ e. establish and submit to MDOC an Interlocal Agreement (if it is necessary for another governmental entity to administer your TSEP funds) (see Exhibit 1-D).
- \_\_\_\_\_ 3. Secure the firm commitment of any non-TSEP resources to be involved in the project and submit to MDOC (see Exhibit 1-E).
- \_\_\_\_\_ 4. Establish that you are in compliance with the accounting, auditing and reporting requirements

- \_\_\_\_\_ a. If you are a new county water and sewer district, you must set up an accounting system that reasonably conforms to generally accepted accounting principles (GAAP). Help can be obtained from the Local Government Services Bureau. (telephone number 841-2909)
- \_\_\_\_\_ b. If you are unsure whether the Local Government Services Bureau (LGSB) familiar with your accounting system, you must contact the LGSB staff (telephone number 841-2909) to describe your accounting system and possibly arrange for an on-site visit if necessary. **MDOC will ask the LGSB staff to confirm that the local government appears to be in compliance with GAAP requirements.**
- \_\_\_\_\_ 5. Comply with any special conditions that were attached to the approval of the grant.

**Note: the following steps are not required in order to meet start-up requirements, but are required before submitting a drawdown of funds.**

- \_\_\_\_\_ 6. Submit a properly completed copy of the Signature Certification Form (Exhibit 1-F). (Needed prior to a drawdown of funds)
- \_\_\_\_\_ 7. Submit a properly completed copy of the Designation of Depository Form (Exhibit 1-G). (Needed prior to a drawdown of funds)
- \_\_\_\_\_ 8. Submit an adopted budget or resolution showing that the local government has properly appropriated the budgeted funds from MDOC (Exhibit 4 -A). (Needed prior to a drawdown of funds)
- \_\_\_\_\_ 9. Establish project files.



## **CHAPTER 1 EXHIBITS**

1-A	Model TSEP Contract
1-B	Management Plan Contents
1-C	Management Plan Format
1-D	Sample Interlocal Agreement
1-E	Guidelines on Firm Commitment of Non-TSEP Funding
1-F	Signature Certification Form
1-G	Designation of Depository Form
1-H	Sample Contact Sheet